SCANNED

3919

MONTANA LEGISLATIVE HISTORY

Chapter 313 ~~19~~ 2005

Bill H 49 S · Original bill & history X C

H. Committee on JUDICIARY			S. Committee on JUDICIARY		
Hearing Date(s)	1/10	X C	Hearing Date(s)	3/14	X C
EXEC ACTION	1/19	X C	EXEC ACTION	3/15	X C
		C	EXEC ACTION	3/18	X C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Bill Draft Number: LC0318
Bill Type - Number: HB 49
Short Title: Revise registration requirements for sexual and violent offenders
Primary Sponsor: Bill Wilson

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 46

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/22/2005			
(H) Signed by Governor	04/21/2005			
(H) Transmitted to Governor	04/13/2005			
(S) Signed by President	04/13/2005			
(H) Signed by Speaker	04/12/2005			
(C) Sent to Printing	04/11/2005			
(H) Returned from Enrolling	04/11/2005			
(H) Sent to Enrolling	04/08/2005			
(H) 3rd Reading Passed as Amended by Senate	04/08/2005	95	0	
(H) Scheduled for 3rd Reading	04/08/2005			
(H) 2nd Reading Senate Amendments Concurred	04/07/2005	99	0	
(H) Scheduled for 2nd Reading	04/07/2005			
(S) Returned to House with Amendments	03/24/2005			
(S) 3rd Reading Concurred	03/24/2005	50	0	
(S) Scheduled for 3rd Reading	03/24/2005			
(S) 2nd Reading Concurred on Voice Vote	03/23/2005	50	0	
(S) Scheduled for 2nd Reading	03/23/2005			
(S) Scheduled for 2nd Reading	03/22/2005			
(C) Sent to Printing	03/19/2005			
(S) Committee Report--Bill Concurred as Amended	03/19/2005			(S) Judiciary
(S) Committee Executive Action--Bill Concurred as Amended	03/19/2005	12	0	(S) Judiciary
(S) Hearing	03/14/2005			(S) Judiciary
(S) Referred to Committee	03/04/2005			(S) Judiciary
(S) First Reading	03/04/2005			
(H) Transmitted to Senate	01/25/2005			
(H) 3rd Reading Passed	01/25/2005	98	1	
(H) Scheduled for 3rd Reading	01/25/2005			
(H) 2nd Reading Passed	01/24/2005	99	0	
(H) Scheduled for 2nd Reading	01/24/2005			
(C) Sent to Printing	01/20/2005			
(H) Committee Report--Bill Passed as Amended	01/20/2005			(H) Judiciary
(H) Committee Executive Action--Bill Passed as Amended	01/20/2005	18	0	(H) Judiciary
(H) Hearing	01/10/2005			(H) Judiciary
(H) Referred to Committee	12/27/2004			(H) Judiciary

(C) Introduced Bill Text Available Electronically	12/07/2004
(H) Introduced	12/07/2004
(C) Pre-Introduction Letter Sent	10/20/2004
(C) Draft in Assembly/Executive Director Review	10/20/2004
(C) Draft in Final Drafter Review	10/14/2004
(C) Bill Draft Text Available Electronically	10/13/2004
(C) Draft in Input/Proofing	10/13/2004
(C) Draft to Drafter - Edit Review [CMD]	10/13/2004
(C) Draft in Edit	10/12/2004
(C) Draft in Legal Review	10/12/2004
(C) Draft to Requester for Review	09/29/2004
(C) Draft Request Received	09/02/2004

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Law and Justice Interim Committee	
Drafter	MacMaster	John
By Request Of	Department of Justice	
Primary Sponsor	Wilson	Bill

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Criminal Procedure (see also: Law Enforcement)		Simple	CRP

Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: Y
Session Law Ch. Number: 313
DEADLINE
Category: General Bills
Transmittal Date: 03/01/2005
Return (with 2nd house amendments) Date: 04/06/2005

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-05	

HOUSE BILL NO. 49

INTRODUCED BY B. WILSON

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAW REQUIRING THE REGISTRATION OF SEXUAL AND VIOLENT OFFENDERS; AMENDING THE DEFINITION OF "SEXUAL OFFENSE"; CHANGING WHO AN OFFENDER MUST REGISTER WITH; CLARIFYING THE PROCEDURE FOR NOTICE OF A CHANGE OF AN OFFENDER'S ADDRESS; CHANGING THE PROCEDURE FOR PETITIONING FOR RELIEF FROM REGISTRATION AFTER 10 YEARS; ALLOWING AN OFFENDER CONVICTED IN ANOTHER JURISDICTION TO BE GIVEN THE RISK LEVEL DESIGNATION ASSIGNED BY THAT JURISDICTION; AND AMENDING SECTIONS 46-23-502, 46-23-504, 46-23-505, 46-23-506, 46-23-508, AND 46-23-509, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-502, MCA, is amended to read:

"46-23-502. Definitions. As used in 46-18-255 and this part, the following definitions apply:

(1) "Department" means the department of corrections provided for in 2-15-2301.

(2) "Mental abnormality" means a congenital or acquired condition that affects the mental, emotional, or volitional capacity of a person in a manner that predisposes the person to the commission of one or more sexual offenses to a degree that makes the person a menace to the health and safety of other persons.

(3) "Personality disorder" means a personality disorder as defined in the fourth edition of the Diagnostic and Statistical Manual of Mental Disorders adopted by the American psychiatric association.

(4) "Predatory sexual offense" means a sexual offense committed against a stranger or against a person with whom a relationship has been established or furthered for the primary purpose of victimization.

(5) "Sexual offender evaluator" means a person qualified under rules established by the department to conduct sexual offender and sexually violent predator evaluations.

(6) "Sexual offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-301 (if the victim is less than 18 years of age and the offender is not a parent of the victim), 45-5-302, 45-5-303, 45-5-502(3), 45-5-503, 45-5-504(1) (if the victim is under 18 years of age and the offender is 18 years of age or older),

45-5-504(2)(c), 45-5-507 (if the victim is under 18 years of age and the offender is 3 or more years older than the victim), 45-5-603(1)(b), or 45-5-625; or

(b) any violation of a law of another state or the federal government that is reasonably equivalent to a violation listed in subsection (6)(a) or for which the offender was required to register as a sex offender after conviction.

(7) "Sexual or violent offender" means a person who has been convicted of a sexual or violent offense.

(8) "Sexually violent predator" means a person who has been convicted of a sexual offense and who suffers from a mental abnormality or a personality disorder that makes the person likely to engage in predatory sexual offenses.

(9) "Violent offense" means:

(a) any violation of or attempt, solicitation, or conspiracy to commit a violation of 45-5-102, 45-5-103, 45-5-202, 45-5-206 (third or subsequent offense), 45-5-210(1)(b), (1)(c), or (1)(d), 45-5-212, 45-5-213, 45-5-401, 45-6-103, or 45-9-132; or

(b) any violation of a law of another state or the federal government reasonably equivalent to a violation listed in subsection (9)(a)."

Section 2. Section 46-23-504, MCA, is amended to read:

"46-23-504. Persons required to register -- procedure. (1) A sexual or violent offender:

(a) shall register immediately upon conclusion of the sentencing hearing if the offender is not sentenced to confinement or is not sentenced to the department and placed in confinement by the department;

(b) must be registered as provided in 46-23-503 at least 10 days prior to release from confinement if sentenced to confinement or sentenced to the department and placed in confinement by the department;

(c) shall register within 10 days of entering a county of this state for the purpose of residing or setting up a temporary domicile for 10 days or more or for an aggregate period exceeding 30 days in a calendar year.

(2) Registration under subsection (1)(a) or (1)(c) must be with the ~~probation office having supervision over the offender. Registration under subsection (1)(c) must be with the~~ chief of police of the municipality or the sheriff of the county if the offender resides in an area other than a municipality. Whichever ~~person an~~ law enforcement official the offender registers with ~~under subsection (1)(c)~~ shall notify the other ~~person~~ official of the registration. The probation officer having supervision over an offender required to register under subsection (1)(a) shall ensure that the offender registers with the appropriate law enforcement agency.

(3) At the time of registering, the offender shall sign a statement in writing giving the information

required by the department of justice. The chief of police or sheriff shall fingerprint the offender, unless the offender's fingerprints are on file with the department of justice, and shall photograph the offender. Within 3 days, the chief of police or sheriff shall send copies of the statement, fingerprints, and photographs to the department of justice.

(4) (a) The department of justice shall mail a registration verification form:

(i) each 90 days to an offender designated as a level 3 offender under 46-23-509 or given a designation by the department under 46-23-509(6) that the department determines to be similar to a level 3 designation; and

(ii) each year to a violent offender or an offender designated as a level 1 or level 2 offender under 46-23-509 or given a designation by the department under 46-23-509(6) that the department determines to be similar to a level 1 or level 2 designation.

(b) The form must require the offender's current address and notarized signature. Within 10 days after receipt of the form, the offender shall complete the form and return it to the department.

(5) The offender is responsible, if able to pay, for costs associated with registration. The fees charged for registration may not exceed the actual costs of registration. The department of justice may adopt a rule establishing fees to cover registration costs incurred by the department of justice in maintaining registration and address verification records. The fees must be deposited in the general fund.

(6) The clerk of the district court in the county in which a person is convicted of a sexual or violent offense shall notify the sheriff in that county of the conviction within 10 days after entry of the judgment."

Section 3. Section 46-23-505, MCA, is amended to read:

"46-23-505. Notice of change of address -- duty to inform -- forwarding of information. If an offender required to register under this part ~~changes residence~~ has a change of address, the offender shall within 10 days of the change give written notification of the new address to the agency with whom the offender last registered or to the department if the offender was initially registered under 46-23-504(1)(b). The agency or department shall, within 3 days after receipt of the new address, forward it to the department of justice, which shall forward a copy of the new address and photograph to the sheriff having jurisdiction over the new ~~place of residence~~ address and to the chief of police of the municipality of the new ~~place of residence~~ address if the new ~~place of residence~~ address is in a municipality."

Section 4. Section 46-23-506, MCA, is amended to read:

"46-23-506. Duration of registration. (1) A sexual offender required to register under this part shall

register for the remainder of the offender's life, except as provided in subsection (3) or during a period of time during which the offender is in prison.

(2) A violent offender required to register under this part shall register:

(a) for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing, but the offender is not relieved of the duty to register until a petition is granted under subsection (3)(a); or

(b) if convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, for the remainder of the offender's life unless relieved of the duty to register as provided in subsection (3)(b).

(3) (a) An offender required to register for 10 years under subsection (2)(a) may, after the 10 years have passed, petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. The petition must be granted if the defendant has not been convicted under subsection (2)(b).

(b) Except as provided in subsection (5), at any time after 10 years of registration, ~~the~~ an offender required to register for life may petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition upon finding that:

~~(a)~~(i) the offender has remained a law-abiding citizen; and

~~(b)~~(ii) continued registration is not necessary for public protection and that relief from registration is in the best interests of society.

(4) The offender may move that all or part of the proceedings in a hearing under subsection (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under subsection (3)(b) is closed to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the offender's right to privacy.

(5) Subsection (3) does not apply to an offender who was convicted of:

(a) a violation of 45-5-503 if:

(i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another; or

(ii) at the time the offense occurred, the victim was under 12 years of age;

(b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and the offender was 3 or more years older than the victim;

(c) a second or subsequent sexual offense that requires registration; or

(d) a sexual offense and was designated as a sexually violent predator under 46-23-509."

Section 5. Section 46-23-508, MCA, is amended to read:

"46-23-508. Dissemination of information. (1) Information maintained under this part is confidential criminal justice information, as defined in 44-5-103, except that:

(a) the name and address of a registered sexual or violent offender are public criminal justice information, as defined in 44-5-103; and

(b) a law enforcement agency shall release any offender registration information relevant to the public if the agency determines that a registered offender is a risk to the safety of the community and that disclosure of the registration information may protect the public and, at a minimum:

(i) if an offender was given a level 1 designation under 46-23-509 or given a designation by the department under 46-23-509(6) that the agency determines to be similar to a level 1 designation, the agency with which the offender is registered shall notify the agency in whose jurisdiction the offense occurred of the registration;

(ii) if an offender was given a level 2 designation under 46-23-509 or given a designation by the department under 46-23-509(6) that the agency determines to be similar to a level 2 designation, the agency with which the offender is registered may disseminate the offender's name to the public with the notation that the offender is a sexual or violent offender and may notify a victim of the offense and any agency, organization, or group serving persons who have characteristics similar to those of a previous victim of the offender of:

(A) the offender's address;

(B) the type of victim targeted by the offense;

(C) the name, photograph, and physical description of the offender;

(D) the offenses for which the offender is required to register under this part; and

(E) any conditions imposed by the court upon the offender for the safety of the public; and

(iii) if an offender was given a level 3 designation under 46-23-509 or given a designation by the department under 46-23-509(6) that the agency determines to be similar to a level 3 designation, the agency shall give the victim and the public notification that includes the information contained in subsection (1)(b)(ii). The agency shall also include the date of the offender's release from confinement or if not confined, the date the offender was sentenced, with a notation that the offender was not confined, and shall include the community in which the offense occurred.

(c) prior to release of information under subsection (1)(b), a law enforcement agency may, in its sole discretion, request an in camera review by a district court of the determination by the law enforcement agency under subsection (1)(b). The court shall review a request under this subsection (1)(c) and shall, as soon as possible, render its opinion so that release of the information is not delayed beyond release of the offender from confinement.

(2) The identity of a victim of an offense for which registration is required under this part may not be released by a law enforcement agency without the permission of the victim.

(3) A state or local law enforcement agency may use the internet to disseminate the information allowed by this section to the public."

Section 6. Section 46-23-509, MCA, is amended to read:

"46-23-509. Sexual offender evaluations and designations -- rulemaking authority. (1) The department shall adopt rules for the qualification of sexual offender evaluators who conduct sexual offender and sexually violent predator evaluations and for determinations by sexual offender evaluators of the risk of a repeat offense and the threat that an offender poses to the public safety.

(2) Prior to sentencing of a person convicted of a sexual offense, the department or a sexual offender evaluator shall provide the court with a sexual offender evaluation report recommending one of the following levels of designation for the offender:

(a) level 1, the risk of a repeat sexual offense is low;

(b) level 2, the risk of a repeat sexual offense is moderate;

(c) level 3, the risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator.

(3) Upon sentencing the offender, the court shall:

(a) review the sexual offender evaluation report, any statement by a victim, and any statement by the

offender;

(b) designate the offender as level 1, 2, or 3; and

(c) designate a level 3 offender as a sexually violent predator.

(4) An offender designated as a level 2 offender or given a level designation by another state, the federal government, or the department under subsection (6) that is determined by the court to be similar to level 2 may petition the sentencing court or the district court for the judicial district in which the offender resides to change the offender's designation if the offender has enrolled in and successfully completed the treatment phase of either the prison's sexual offender program or of an equivalent program approved by the department. After considering the petition, the court may change the offender's risk level designation if the court finds by clear and convincing evidence that the offender's risk of committing a repeat sexual offense has changed since the time sentence was imposed. The court shall impose one of the three risk levels specified in this section.

(5) If, at the time of sentencing, the sentencing judge did not apply a level designation to a sexual offender who is required to register under this part, the department shall designate the offender as level 1, 2, or 3 when the offender is released from confinement or, if the offender's offense is covered by 46-23-502(6)(b), after the offender enters this state.

(6) If an offense is covered by 46-23-502(6)(b), the offender registers under 46-23-504(1)(c), and the offender was given a risk level designation after conviction by another state or the federal government, the department may give the offender the risk level designation assigned by the other state or the federal government."

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DIANE RICE**, on January 10, 2005 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Roger Koopman (R)
Rep. Michael Lange (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Bill Wilson (D)
Rep. Jeanne Windham (D)

Members Excused: Rep. John Parker (D)

Members Absent: None

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 49, HB 58, HB 61, 1/5/2005
Executive Action: None

Joe Mazurek, D.A. Davidson, rose in opposition to this bill.
{Tape: 2; Side: B; Approx. Time Counter: 473 - 487}

Brad Griffin, Montana Retail Association, rose in opposition to this bill.
{Tape: 2; Side: B; Approx. Time Counter: 487 - 500}

Informational Testimony: None

Questions from Committee Members and Responses:

REP. MACGILLVRAY, inquired of Mr. Alke if any amendments would help this bill. **Mr. Alke** stated that he would like to see the bill defeated.
{Tape: 3; Side: A; Approx. Time Counter: 0 - 19}

Closing by Sponsor:

REP. HARRIS closed the hearing on HB 58; he stated that there is case law in Montana that states evidentiary material filed with the court is filed with a public party.
{Tape: 3; Side: A; Approx. Time Counter: 19 - 58}

HEARING ON HB 49

REP. BILL WILSON, HD 22, GREAT FALLS

Opening Statement by Sponsor:

REP. BILL WILSON, HD 22, opened the hearing on HB 49, Revise registration requirements for sexual and violent offenders. **REP. WILSON** gave a brief description to committee members as to each section listed in the bill.
{Tape: 3; Side: A; Approx. Time Counter: 58 - 119}

Proponents' Testimony:

Ali Bovington, Montana Assistant Attorney General, rose in support of this bill. **Ms. Bovington** informed the committee members that the registration law for sex offenders was first enacted in 1989. It was amended in 1995 to include violent offenders. She further explained how this bill would be beneficial.
EXHIBIT(juh06a07)
{Tape: 3; Side: A; Approx. Time Counter: 119 - 209}

Jim Smith, Montana Sheriffs and Peace Officers Association, Montana County Attorneys Association, rose in support of HB 49.

{Tape: 3; Side: A; Approx. Time Counter: 209 - 232}

Jim Kimble, Montana Association of Chiefs of Police, rose in support of HB 49.
{Tape: 3; Side: A; Approx. Time Counter: 232 - 237}

Brenda Thompson, Montana Department of Corrections, rose in support of HB 49.
{Tape: 3; Side: A; Approx. Time Counter: 237 - 254}

Opponents' Testimony:

Scott Crichton, ACLU, rose in opposition to HB 49. **Mr. Crichton** expressed his concern as to what the compelling reason is for this registration process.
{Tape: 3; Side: A; Approx. Time Counter: 254 - 314}

Informational Testimony: None

Questions from Committee Members and Responses:

REPS. HARRIS, NOENNIG, KOOPMAN, STOKER, and **MCGILLVRAY** queried Ms. Bovington extensively. Among their questions were: "If an offender needs to register, would that impose an additional sentence; would this be a life time registration; and is this a reasonable equivalent to what other states are doing?"
{Tape: 3; Side: A; Approx. Time Counter: 314 - 500}
{Tape: 3; Side: B; Approx. Time Counter: 0 - 70}

Closing by Sponsor:

REP. WILSON closed the hearing on 49 and stated that this bill would be a "clean-up" bill.
{Tape: 3; Side: B; Approx. Time Counter: 70 - 82}

HOUSE OF REPRESENTATIVES
Roll Call
JUDICIARY COMMITTEE

DATE 1/10/05

NAME	PRESENT	ABSENT	EXCUSED
REP. DIANE RICE, CHAIR	✓		
REP. RON STOKER, VICE CHAIR	✓		
REP. PAUL CLARK, VICE CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. ROBYN DRISCOLL	✓		
REP. GEORGE EVERETT	✓		
REP. GAIL GUTSCHE	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. ROGER KOOPMAN	✓		
REP. MIKE LANGE	✓		
REP. TOM McGILLVRAY	✓		
REP. MARK NOENNIG	✓		
REP. ART NOONAN	✓		
REP. JOHN PARKER			✓
REP. JON SONJU	✓		
REP. JOHN WARD	✓		
REP. BILL WILSON	✓		
REP. JEANNE WINDHAM	✓		

EXHIBIT 7
DATE 1/10/05
HB 49

DEPARTMENT OF JUSTICE
HB 49: Revisions to the Sexual or Violent Offender Registration Act

Background

Montana's Sexual or Violent Offender Registration Act is designed to protect the public from sexual and violent offenders by requiring offenders to register with local law enforcement agencies in the jurisdiction where they reside. Information about these offenders is then made available to the public. Montana's registration law for sex offenders has been in place since 1989, and for violent offenders since 1995. This bill revises the Act to clarify administrative issues that have arisen and to better serve the public.

Proposed Amendments

HB 49 makes the following revisions to the Registration Act:

- **Section 1**: requires registration for out-of-state or federal offenders designated as sexual offenders by the laws of another state or the federal government.
- **Section 2**: clarifies registration procedures. All offenders, except those who register with the Department of Corrections upon release from confinement, must register with the appropriate local law enforcement agency.
- **Section 3**: clarifies the change of address requirement. Offenders who registered initially with the Department of Corrections must notify that department of any change in address.
- **Section 4**: clarifies that violent offenders must petition the sentencing court or the district court where the offender resides for relief from the duty to register.
- **Section 6**: allows Montana to recognize risk level designations given by another state or the federal government and to post that information accordingly.

Purpose

These changes will fix administrative problems that have arisen in implementing the provisions of the Act. Under HB 49, out-of-state and federal sexual offenders who move to Montana will be treated in the same manner as Montana offenders, enhancing public protection from those offenders.

2005 Legislature
January 10, 2005

Montana House of Representatives
Visitors Register

JUDICIARY COMMITTEE **Date** 1-10-05

Bill No. HB-49 **Sponsor(s)** Rep. B Wilson

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

Name and Address	Representing	Support	Oppose	Inf.
Jim Kembel 1100 Knight/ Helena	MT Assoc. of Chiefs of Police	X		
Jeff Bovington	Atty Gen'l's Office	X		
WEBB BROWN	MONTANA CHAMBER			
Kathy McGowan	MSPOA	X		
Kent Lloyd	LAD			X
Jim Smith	MTSPCA	✓		
Scott Crichton	ACLU		X	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

/s/JudicVisitorReg.sample2003

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN DIANE RICE**, on January 19, 2005 at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:
Rep. Diane Rice, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Ron Stoker, Vice Chairman (R)
Rep. Arlene Becker (D)
Rep. Robyn Driscoll (D)
Rep. George Everett (R)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Roger Koopman (R)
Rep. Michael Lange (R)
Rep. Tom McGillvray (R)
Rep. Mark E. Noennig (R)
Rep. Art Noonan (D)
Rep. John Parker (D)
Rep. Jon Sonju (R)
Rep. John Ward (R)
Rep. Bill Wilson (D)
Rep. Jeanne Windham (D)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing & Date Posted: HB 197, HB 245, HB 40, HB 243, 1/11/2005
Executive Action: HB 66-Do Pass As Amended, HB 49-Do Pass As Amended, HB 169-Do Pass As

EXECUTIVE ACTION ON HB 49

Motion: REP. CLARK moved that HB 49 DO PASS.

Discussion:

Motion: REP. WILSON moved that HB 49 BE AMENDED with 49-02. EXHIBIT(juh14a08)

Discussion:

Mr. MacMaster explained the amendment. The majority of the committee weighed in on the Amendment 49-02 with variations to that amendment but none were added to change the significance of the amendment.

Vote: Motion carried unanimously by roll call vote.

Motion: REP. CLARK moved that HB 49 BE AMENDED with a Conceptual Amendment. Motion carried unanimously by voice vote.

Motion: REP. CLARK moved that HB 49 DO PASS AS AMENDED.

Discussion:

Motion: REP. KOOPMAN moved that HB 49 BE AMENDED with 49-01. EXHIBIT(juh14a09)

Discussion:

The discussion centered around the registration of sex offenders in Montana.

Vote: Motion failed 2-16 with REPS. KOOPMAN and WARD voting aye by roll call vote.

Motion/Vote: REP. WILSON moved that HB 49 DO PASS AS AMENDED. Motion carried unanimously by roll call vote.
{Tape: 2; Side: B; Approx. Time Counter: 34 - 500}
{Tape: 3; Side: A; Approx. Time Counter: 0 - 100}

EXHIBIT 8
DATE 1/19/05
HB 49

Amendments to House Bill No. 49
1st Reading Copy

Requested by Representative Bill Wilson

For the House Judiciary Committee

Prepared by John MacMaster
January 17, 2005 (2:43pm)

1. Title, page 1, line 11.
Strike: "46-23-508,"

2. Page 3, line 8 through line 9.
Strike: "or given" on line 8 through "designation" on line 9

3. Page 3, line 11 through line 12.
Strike: "or given" on line 11 through "designation" on line 12

4. Page 5, line 15 through page 6, line 21.
Strike: section 5 in its entirety
Renumber: subsequent section

5. Page 7, line 20 through line 21.
Strike: "or, if" on line 20 through "state" on line 21

6. Page 7, line 24.
Following: "department"
Insert: "of justice"

- END -

EXHIBIT 9
DATE 1/19/05
HB 49

Amendments to House Bill No. 49
1st Reading Copy

Requested by Representative Roger Koopman

For the House Judiciary Committee

Prepared by John MacMaster
January 11, 2005 (1:56pm)

1. Title, page 1, line 6 through line 7.
Strike: "AMENDING" on line 6 through "OFFENSE";" on line 7

2. Title, page 1, line 11.
Strike: "46-23-502,"

3. Page 1, line 16 through page 2, line 16.
Strike: section 1 in its entirety
Renumber: subsequent sections

- END -

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN MIKE WHEAT**, on March 14, 2005 at 8:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jon Ellingson (D)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 201, HB 49, HB 191, HB 696
Executive Action: HB 97; HB 98; HB 285; HB 345; HB 349; HB 363; HB 367

HEARING ON HB 49

Opening Statement by Sponsor:

REP. BILL WILSON (D), HD 22, opened the hearing on **HB 49,** Revise registration requirements for sexual and violent offenders.

REP. WILSON brought the bill at the request of the Department of Justice to deal with issues that have come up in relation to the enforcement of the sex offender and violent offender registration laws. He went through the bill, touching on the main points. He informed the Committee that Section 1 of the bill would allow Montanans to require registration of a sex offender whether Montana has the same law on the books. He noted that Section 2 made registration procedures more workable. He explained that the burden would still be on the offender to register. In Section 3, change of address requirements were clarified while Section 4 dealt with violent offender registration. He commented that Section 4 would say that the violent offender would have to petition the court to be relieved of registration. This would allow the individual to be scrutinized more closely before their release from registration. The final thing he addressed was the new language in Section 6 which would allow Montana to recognize risk levels given to offenders in other states. He added that he was in agreement with the proposed amendment by Brenda Thompson.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.2}

Proponents' Testimony:

Ali Bovington, Representing the Attorney General's Office, stated that Montana's Sexual and Violent Sexual Offender Registration Act was designed to protect the public from individuals who have been convicted of sexual or violent offenses in Montana. She noted that the offenders were required to register with their local law enforcement agencies or with the Department of Corrections. She claimed that HB 49 would revise the act to clarify administrative issues that have arisen over the course of administering the act. The changes seek to change the act to better serve the public. She discussed Section 1 of the bill. She noted that in Montana currently they determine whether an individual moving into Montana from another state has a record and if their conviction is comparable to an offense requiring registration in Montana. She indicated that in some states there are sex offenses on the books that Montana does not have. If this occurs, Section 1 would allow Montana to make these offenders register. She stated that this was a public safety issue.

She discussed Section 2 which would clarify the registration procedures. She noted that it would require all offenders, except for those who register initially with the Department of Corrections, to register with the appropriate local law enforcement agencies.

Ms. Bovington informed the Committee that Section 3 would clarify the change of address requirement. She noted that the law 46-23-505 requires offenders who change their address to notify the agency with whom they last registered. This section of the bill would state that the Department of Corrections had to be notified of their change in address.

She expressed that Section 4 would clarify that violent offenders must petition the sentencing court or the district court where the offender resides before they are released from the duty to register. She indicated that violent offenders are required to register for ten years, at which time they are dropped off the registration rolls unless they have been convicted of another felony during that ten-year period. She wanted to see the burden returned to the offender. The primary reason she gave for this was that while criminal history records are good they are not always perfect.

The last section she discussed was Section 6. She explained that this section would allow them to recognize risk level designations given by another state or the federal government when offenders are moved into Montana. She reiterated that this would be a public safety measure. During her presentation, she passed out a Department of Justice fact sheet on HB 49.

EXHIBIT(jus56b04)

{Tape: 1; Side: B; Approx. Time Counter: 4.2 - 12.2}

Brenda Thompson, an Attorney with the Department of Corrections, spoke in support of HB 49. She claimed that the changes in Section 2 would accurately reflect how the sex offender registration process was currently occurring. She asserted that sex offender registration occurred at local law enforcement. She stated that if a sex offender has not registered then a probation and parole officer could seek to revoke their probation. She noted that Section 2, Subsection 1B, made it an obligation of the prison to start the registration of the individual at least ten days prior to release.

{Tape: 1; Side: B; Approx. Time Counter: 12.2 - 16.2}

Jim Smith, Representing Montana Sheriffs and Peace Officers Association and Montana County Attorney's Association, expressed that the registration requirement for an offender to register with the chief of police or the sheriff was logical. He felt that the accountability and responsibility should be paired. He noted that the county attorneys would be willing to take on the responsibility given to them in Section 4 of the bill.

{Tape: 1; Side: B; Approx. Time Counter: 16.2 - 17.5}

Harris Himes, Representing the Montana Family Coalition, supported the bill conceptually. He thought that it would be a good thing to do in order to protect families.

{Tape: 1; Side: B; Approx. Time Counter: 17.5 - 18.1}

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

SEN. JIM SHOCKLEY, SD 45, VICTOR, referenced Page 2, Lines 5-6. He understood this section to mean that if someone has committed a crime in another state that is not a crime in Montana, they would still have to register in Montana as a sex offender.

Ms. Bovington replied that if the state where he was convicted, classified that offense as a sex offense, the offender would be required to register in Montana as a sex offender.

SEN. SHOCKLEY followed up by asking if that would occur even if whatever the individual had done would not be a crime in Montana.

Ms. Bovington responded that it could be a crime in Montana, but not one that required registration, or it could be a crime that was not in Montana's books.

CHAIRMAN WHEAT wanted to know what felony voyeurism was.

Ms. Bovington promised to provide him with the definition.

{Tape: 1; Side: B; Approx. Time Counter: 18.1 - 20}

SEN. MCGEE cited Section 28, Subsection 2, of the Constitution. He wanted to know if they had considered that issue in light of the proposal to require the individual to appeal to the court for the cessation of registration at ten years. He felt that the

person had fulfilled their sentence and should not have to do something further when it was really a bookkeeping issue.

Ms. Bovington replied that they had considered the issue and, in the State of Montana vs. Robert Mount, Mr. Mount, a sex offender, had challenged the retroactive applicability provisions of the law based on ex post facto grounds and restoration of rights grounds. She indicated that the court had determined that the requirements of the registration act were a civil regulatory scheme and not punishment, thus not evoking the Restoration of Rights Clause of the Constitution. She was, therefore, not worried about the provision raising constitutional issues.

{Tape: 1; Side: B; Approx. Time Counter: 20 - 21.8}

SEN. MCGEE restated that the court had decided that the registration portion was a civil issue.

Ms. Bovington affirmed this statement and promised to provide a copy of the decision.

SEN. GARY PERRY, SD 35, MANHATTAN, asked if there was any need for coordination between HB 49 and SB 207, the GPS monitoring of Level 3 offenders.

Ms. Bovington did not think that there would be a need for coordination because SB 207 would be a condition of probation and parole while HB 49 was a civil regulatory issue.

{Tape: 1; Side: B; Approx. Time Counter: 21.7 - 22.9}

SEN. PERRY followed up stating that he had been concerned about cases such as a case in Massachusetts where a judge, as a condition of a sentence, ordered that the offender move to Montana. He did not want Montana to be a boneyard for sexual offenders from other states. He wanted to know if it was possible, if this bill passed, that they could designate a level-three offender and monitor them.

Ms. Bovington wondered if this was in connection with the GPS monitoring.

SEN. PERRY clarified that in addition to registration he wanted to know if they could monitor a level three offender who moved to the state.

Ms. Bovington thought that most states would limit that to a condition of probation and parole and it has not been expanded to someone who has completed their term of probation and parole.

CHAIRMAN WHEAT left the hearing at 8:53 A.M. **SEN. MCGEE** was acting as chair.

SEN. JEFF MANGAN, SD 12, GREAT FALLS, wondered if there were amendments prepared by the Department of Corrections or if they would want the Committee to come up with them on their own.

Ms. Thompson replied that she had an amendment prepared but would like to discuss it with Ms. Bovington and the sponsor.

{Tape: 1; Side: B; Approx. Time Counter: 22.9 - 26.3}

SEN. JESSE LASLOVICH, SD 43, ANACONDA, wanted to know why on Line 14 it was "may" and not "must petition the court".

Ms. Bovington responded that the reason was that for sex offenders it was clear that to be released from registration they have to petition the court. She thought that the "may" was there so that if they did not petition the court then they would be required to continue to register. She asserted that there would be no hassle if the offender decided not to petition the court.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 1.5}

Closing by Sponsor:

REP. WILSON thought that this bill would make the laws more workable. He promised to go over the amendments. He indicated that **SEN. MANGAN** had agreed to carry the bill on the Senate floor.

VICE CHAIR MCGEE closed the hearing on HB 49 and opened the hearing on HB 191.

{Tape: 2; Side: A; Approx. Time Counter: 1.5 - 2.4}

HEARING ON HB 191

Opening Statement by Sponsor:

REP. ARLENE BECKER (D), HD 52, opened the hearing on **HB 191,** Clarify application of spousal privilege to certain communications.

REP. BECKER informed the Committee that the basic purpose of HB 191 was to clarify that spousal privileges and communications apply only to communications made during a marriage. She indicated that the gist of the bill began on Line 15 where it

Exhibit No. 4
Date 3-14-05
Bill No. HB49

DEPARTMENT OF JUSTICE
HB 49: Revisions to the Sexual or Violent Offender Registration Act

Background

Montana's Sexual or Violent Offender Registration Act is designed to protect the public from sexual and violent offenders by requiring offenders to register with local law enforcement agencies in the jurisdiction where they reside. Information about these offenders is then made available to the public. Montana's registration law for sex offenders has been in place since 1989, and for violent offenders since 1995. This bill revises the Act to clarify administrative issues that have arisen and to better serve the public.

Proposed Amendments

HB 49 makes the following revisions to the Registration Act:

- **Section 1**: requires registration for out-of-state or federal offenders designated as sexual offenders by the laws of another state or the federal government.
- **Section 2**: clarifies registration procedures. All offenders, except those who register with the Department of Corrections upon release from confinement, must register with the appropriate local law enforcement agency.
- **Section 3**: clarifies the change of address requirement. Offenders who registered initially with the Department of Corrections must notify that department of any change in address.
- **Section 4**: clarifies that violent offenders must petition the sentencing court or the district court where the offender resides for relief from the duty to register.
- **Section 6**: allows Montana to recognize risk level designations given by another state or the federal government and to post that information accordingly.

Purpose

These changes will fix administrative problems that have arisen in implementing the provisions of the Act. Under HB 49, out-of-state and federal sexual offenders who move to Montana will be treated in the same manner as Montana offenders, enhancing public protection from those offenders.

2005 Legislature
March 14, 2005

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

JUDICIARY

DATE 3-14-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MICHAEL WHEAT, CHAIRMAN	X		
SEN. BRENT CROMLEY	X		
SEN. AUBYN CURTISS	X		
SEN. JON ELLINGSON	X		
SEN. JESSE LASLOVICH	X		
SEN. JEFF MANGAN	X		
SEN. DAN McGEE	X		
SEN. LYNDA MOSS	X		
SEN. JERRY O'NEIL	X		
SEN. GERALD PEASE	X		
SEN. GARY PERRY	X		
SEN. JIM SHOCKLEY	X		
VALENCIA LANE, LSD			
MARI PREWETT, COMMITTEE SECRETARY			

DATE March 14, 2005

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 696, HB201, HB191, HB49

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Sandi Olsen	841-5001	DEQ	HB201	X	
Chris Tweeten	1380	Attorney General	HB201	X	
Larry Peterman	9817	FWP	HB201	X	
John Wilson	449-9933	MT Trout Unlimited	HB201	X	
HARRIS HIMES		MFC	HB49	✓	
Brenda Thompson	444-3918	Dept of Corrections	HB49	✓	
Ali Bovingdon	444-587	Atty Genl's Office	HB49	X	
"	"	"	HB191	X	
Jim Smith	3-1570	Sheriffs / County Attys	HB49		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **SEN. BRENT R. CROMLEY**, on March 15, 2005 at 8:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jon Ellingson (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)

Members Excused: Sen. Mike Wheat, Chairman (D)
Sen. Jesse Laslovich (D)
Sen. Jim Shockley (R)

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:	HB 91, HB 356, HB 488, HB 693
Executive Action:	HB 49; HB 191; HB 196; HB 245; HB 262; HB 307

that Mr. Smith said that the bill clouded up public safety. He thought that public safety was clouded up already and that this bill attempted to make the rules more obvious. He did not think that the arguments against the bill were compelling. He claimed that the facts showed that if people were allowed to defend themselves there is less violence.

VICE CHAIR CROMLEY closed the hearing on HB 693.

REP. WELLS indicated that **SEN. SHOCKLEY** would be carrying the bill on the Senate floor.

{Tape: 4; Side: A; Approx. Time Counter: 12.7 - 18.2}

SEN. SHOCKLEY and **SEN MANGAN** left the hearing.

EXECUTIVE ACTION ON HB 49

Motion: SEN. MCGEE moved that HB 49 BE CONCURRED IN.

Discussion: SEN. MOSS noted that there might be an amendment from Ms. Bovington.

SEN. O'NEIL thought that it might be about the offender taking himself off the offender's list.

SEN. MCGEE interjected that he had brought up the question regarding the Constitutional provision in Article 2, Section 8. He reminded the Committee that Ms. Bovington had noted that extended supervision was not a criminal-related factor but a civil-related factor and therefore was fine to do. He did not recall a discussion about an amendment on the bill.

{Tape: 4; Side: A; Approx. Time Counter: 18.2 - 22.5}

SEN. LASLOVICH recalled that the amendment was in regard to Section 3. The reason he thought for not having it was that the Department of Justice did not like it. He thought that it would be prudent to hold off on executive action because they had not heard back from the concerned parties with regard to the amendment.

SEN. MCGEE withdrew his motion to concur in HB 49 without objection.

{Tape: 4; Side: A; Approx. Time Counter: 22.5 - 23.4}

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

JUDICIARY

DATE 3-15-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MICHAEL WHEAT, CHAIRMAN			X
SEN. BRENT CROMLEY	X		
SEN. AUBYN CURTISS	X		
SEN. JON ELLINGSON	X		
SEN. JESSE LASLOVICH			X
SEN. JEFF MANGAN	X		
SEN. DAN McGEE	X		
SEN. LYNDA MOSS	X		
SEN. JERRY O'NEIL	X		
SEN. GERALD PEASE	X		
SEN. GARY PERRY	X		
SEN. JIM SHOCKLEY			X
VALENCIA LANE, LSD			
MARI PREWETT, COMMITTEE SECRETARY			

MINUTES

MONTANA SENATE
59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN MIKE WHEAT**, on March 18, 2005 at 8:05 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Sen. Mike Wheat, Chairman (D)
Sen. Brent R. Cromley (D)
Sen. Aubyn Curtiss (R)
Sen. Jon Ellingson (D)
Sen. Jesse Laslovich (D)
Sen. Jeff Mangan (D)
Sen. Dan McGee (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)
Sen. Gary L. Perry (R)
Sen. Jim Shockley (R)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted:
Executive Action: HB 726; HB 113; HB 615; HB 696; HJ 15; HJ 28; HB 49; HB 307; HB 363

Vote: SEN. WHEAT'S motion failed on a 3 to 9 voice vote. SENATORS CURTISS, CROMLEY, and O'NEIL voted aye. SEN. MANGAN voted aye by proxy.

Motion/Vote: SEN. ELLINGSON moved that HJ 28 BE TABLED. Motion carried on an 8 to 4 voice vote with SENATORS CROMLEY, CURTISS, MANGAN, and O'NEIL voting nay. SEN. MANGAN voted nay by proxy.

EXECUTIVE ACTION ON HB 49

{Tape: 2; Side: B; Approx. Time Counter: 10.3 - 20.6}

Motion: SEN. CROMLEY moved that HB 49 BE CONCURRED IN.

Motion: SEN. CROMLEY moved the approval of amendment #HB49.02 as prepared by Brenda Thompson, Department of Corrections.

EXHIBIT(jus60a03)

Discussion: Ms. Thompson said that the amendment includes law enforcement as an entity that can receive notice of an address change for any offender who has to register as a sexual or violent offender.

SEN. ELLINGSON asked if the offender satisfied his or her obligation by registering with any one of the three entities; i.e., the Department, the chief of police of the municipality, or sheriff of the county from which the offender is moving. **Ms. Thompson** said that the purpose of the amendment is to deal only with offenders who are initially registered under 46-23-504(1)(b), MCA. These are offenders who are in prison. When they are in prison, there is an obligation that they register or start the registration process 10 days before they are released. The offender also has the obligation to notify law enforcement in the new jurisdiction where they are moving to. **SEN. ELLINGSON** said if existing statute already requires that the offender notify the place where the offender is moving, the language should just say that the offender notify the Department and the chief or police of the municipality from which they are leaving, rather than giving the offender the options. **Ms. Thompson** said that the Department would not be opposed to the language.

Motion: SEN. CROMLEY moved to amend #HB49.02 by striking "or" and inserting "and" following department on Page 3, line 27, Motion carried on a unanimous voice vote. SENATORS MANGAN and MCGEE voted aye by proxy.

Motion: SEN. WHEAT moved that HB 49 BE CONCURRED IN AS AMENDED.

{Tape: 2; Side: B; Approx. Time Counter: 20.6 - 26.6}

Motion: SEN. PERRY moved to further amend HB 49 by striking "who" on line 7 of the Title and inserting "with whom". Motion carried unanimously by voice vote. SENATORS MANGAN and MCGEE voted aye by proxy.

Vote: SEN. WHEAT'S motion that HB 49 BE CONCURRED IN AS AMENDED carried unanimously by voice vote. SENATORS MANGAN and MCGEE voted aye by proxy. SEN. PERRY will carry the bill.

EXECUTIVE ACTION ON HB 307

{Tape: 3; Side: A; Approx. Time Counter: 3.5 - 17.2}

Motion: SEN. SHOCKLEY moved that HB 307 BE CONCURRED IN.

Motion: SEN. SHOCKLEY moved the approval of amendment #HB030701.avl.

EXHIBIT(jus60a04)

Discussion: SEN. SHOCKLEY said that HB030701.avl leaves the provision that makes money laundering illegal and deletes the draconian provisions that relate to the property, particularly in regard to third parties. If someone forfeits the property and there is another person with an interest in the property, it will be handled as any other civil matter; i.e., they will have to clear title to the property like anyone else would.

Vote: SEN. SHOCKLEY'S motion to approve amendment #HB030701.avl carried on a unanimous voice vote. SEN. MCGEE voted aye by proxy.

Motion: SEN. O'NEIL moved the approval of amendment #HB030701.apm.

EXHIBIT(jus60a05)

Discussion: SEN. O'NEIL said that HB030701.apm clarifies that the money laundering activity must be unlawful in the state in which the activity occurred or the United States.

SEN. CROMLEY felt that the amendment was good. He said that the way HB 307 currently reads, if a person wins a car or $100,000 in

3
3-18-05
HB 49

HB 49.02
Amendment prepared by Brenda Thompson

1. Page 3, line 27
Following: "or"
Strike: "to the department"
Following: "46-23-504(1)(b)"
Insert: "to the department or to the chief of police of the municipality or sheriff of the county from which the offender is moving."

MONTANA SENATE
2005 LEGISLATURE

ROLL CALL

JUDICIARY

DATE 3-18-05

NAMES	PRESENT	ABSENT	EXCUSED
SEN. MICHAEL WHEAT, CHAIRMAN	X		
SEN. BRENT CROMLEY	X		
SEN. AUBYN CURTISS	X		
SEN. JON ELLINGSON	X		
SEN. JESSE LASLOVICH	X		
SEN. JEFF MANGAN	X		
SEN. DAN McGEE	X		
SEN. LYNDA MOSS	X		
SEN. JERRY O'NEIL	X		
SEN. GERALD PEASE	X		
SEN. GARY PERRY	X		
SEN. JIM SHOCKLEY	X		
VALENCIA LANE, LSD			
MARI PREWETT, COMMITTEE SECRETARY			

SENATE STANDING COMMITTEE REPORT

Mr. President:

We, your committee on **Judiciary** recommend that **House Bill 49** (third reading copy -- blue) **be concurred in as amended.**

Signed: *Senator Mike Wheat, Chair*

To be carried by Senator Gary Perry

And, that such amendments read:

1. Title, line 7.
Following: "CHANGING"
Strike: "WHO"
Insert: "WITH WHOM"
Following: "REGISTER"
Strike: "WITH"

2. Page 3, line 27.
Following: "or"
Insert: ","
Strike: "to the department"
Following: "46-23-504(1)(b)"
Insert: ", to the department and to the chief of police of the municipality or sheriff of the county from which the offender is moving"

- END -

Committee Vote:
Yes 12, No 0.